

## **REMARKS**

### **Advisory Action of November 08, 2010**

This paper is submitted in response to the Advisory Action of November 08, 2010, and is in further response to the final Office Action dated October 15, 2010 (“the OA”), for which a response is initially due on January 15, 2011.

This paper is Applicants' second “after final” (or “AF”) response. The first AF was submitted on October 21, 2010; and it is this October 21, 2010, AF that the Advisory Action specifically addresses.

### ***Regarding the Advisory Action***

Regarding the Advisory Action, in brief, the claim amendment submitted in the first AF on October 21, 2010, was NOT entered; see *inter alia* paragraphs 3 and 7, page 1, of the PTOL-303 “advisory action” form.

Referring to the “continuation of [paragraph] 11”, page 2, of the PTOL-303 “advisory action” form:

- (1) the Office alleged that canceled the term “purgative” in the preamble broadened the claim, thus requiring a further search; and
- (2) the Office alleged that the amendment to claim 43 is directed to non-elected subject matter (non-elected invention).

### ***Addressing the Advisory Action***

To address the Office's concerns, the claims are re-amended and resubmitted in this second AF:

- (1) the deletion of the term “purgative” is removed; thus, the claims remain directed to “a purgative composition” (as pending for the Final OA); and
- (2) claim 43 is deleted.

Because the claim amendment submitted in the first AF on October 21, 2010, was NOT entered – this instant claim amendment is based on the claims as pending for the final Office Action dated October 15, 2010.

## **Status of the Claims**

### ***Pending claims***

Claims 1 to 11, 37 to 40, and 42 to 57, are pending and under consideration.

### ***Claims canceled and added***

Claims 2, 43, 45, 46, and 52 to 57, are canceled without prejudice or disclaimer, and claim 58 is added. Thus, after entry of the instant amendment, claims 1, 3 to 11, 37 to 40, 42, 44, 47 to 51, and 58, will be pending.

Applicants respectfully request entry of the amendments set forth in this response under 37 CFR §1.116. The amendment places the case in condition for allowance and places the case in better condition for appeal; the amendment does not raise any issues of new matter; and, the amended and/or new claims do not present new issues requiring further consideration or search.

### ***Outstanding Objections and Rejections***

The specification is objected to for reasons set forth on page 2 of the OA. Claims 1 to 11, 37 to 40, and 42 to 57, stand rejected under 35 U.S.C. §112, first paragraph, written description requirement, for reasons set forth on pages 3 to 6, of the OA. Claims 54 to 57 stand rejected under a 35 U.S.C. §112, first paragraph, "new matter" written description requirement, for reasons set forth on page 6, of the OA. Claims 54 to 57 stand rejected under a 35 U.S.C. §112, first paragraph, enablement requirement, for reasons set forth on pages 6 to 9, of the OA. Claims 1 to 11, 37 to 40, and 42 to 57, stand rejected under 35 U.S.C. §112, second paragraph, for reasons set forth on pages 9 to 10, of the OA.

Applicants respectfully traverse all outstanding objections to the specification and rejections of the claims.

## **Support for the Claim Amendments**

The specification sets forth an extensive description of the invention in the new and amended claims. Support for claims directed to compositions of the invention formulated as medicaments can be found, *inter alia*, in paragraph [0039] of the publication of this specification U.S. Pat. App. Pub. No. 20050271749 (hereinafter "the '749 publication"). Support for claims directed to compositions comprising various sugars can be found, *inter alia*, in paragraph [0049] of the '749

publication. Accordingly, Applicants submit that no new matter has been introduced and the amendment can be properly entered.

Objection to the Specification

The specification is objected to for reasons set forth on page 2 of the OA. The instant amendment, including the cancellation of claims 54 to 57, addresses this issue.

Issues under 35 U.S.C. §112, first paragraph

Claims 1 to 11, 37 to 40, and 42 to 57, stand rejected under 35 U.S.C. §112, first paragraph, written description requirement, for reasons set forth on pages 3 to 6, of the OA. Claims 54 to 57 stand rejected under a 35 U.S.C. §112, first paragraph, “new matter” written description requirement, for reasons set forth on page 6, of the OA. Claims 54 to 57 stand rejected under a 35 U.S.C. §112, first paragraph, enablement requirement, for reasons set forth on pages 6 to 9, of the OA.

The instant amendment, including the incorporation of claim 2 into independent claim 1, cancellation of alleged “new matter” and claims 54 to 57, addresses this issue.

Issues under 35 U.S.C. §112, second paragraph

Claims 1 to 11, 37 to 40, and 42 to 57, stand rejected under 35 U.S.C. §112, second paragraph, for reasons set forth on pages 9 to 10, of the OA.

The instant amendment, including the incorporation of claim 2 into independent claim 1, addresses this issue.

CONCLUSION

In view of the foregoing amendment and remarks, it is believed that the Examiner can properly withdraw the objection to the specification and the rejection of the pending claims under 35 U.S.C. §112, first and second paragraphs. Applicants believe all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Applicants believe that no additional fees are necessitated by the present response and amendment. However, in the event any such fees are due, the Commissioner is hereby authorized to charge any such fees to Deposit Account No. 504586. Please credit any overpayment to this account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 619-742-0198, or (858) 458-3607.

Respectfully submitted,  
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